

REDACTED**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THOMAS LAUMANN, FERNANDA GARBER,)	
ROBERT SILVER, and PETER HERMAN,)	
representing themselves and all others similarly)	
situated,)	12-cv-1817 (SAS)
)	
Plaintiffs,)	
)	
v.)	
)	
NATIONAL HOCKEY LEAGUE et al.,)	
)	
Defendants.)	
)	
FERNANDA GARBER, MARC LERNER,)	
DEREK RASMUSSEN, and ROBERT SILVER,)	
representing themselves and all others similarly)	
situated,)	12-cv-3704 (SAS)
)	
Plaintiffs,)	ECF Case
)	
v.)	<u>Electronically Filed</u>
)	
OFFICE OF THE COMMISSIONER OF)	
BASEBALL et al.,)	
)	
Defendants.)	
)	

DECLARATION OF LAWRENCE A. JONES

DECLARATION OF LAWRENCE A. JONES

1. I am the Executive Vice President of Fox Sports Media Group, a division of Fox Broadcasting Company ("FBC"). I have worked in the television industry for over 30 years. Previously, I was Chief Operating Officer of Fox Sports Media Group, and have extensive experience with sports rights acquisitions. I became Executive Vice President in 2011. I make this declaration based on my personal knowledge and my knowledge of the television and sports industries. If called upon to do so, I could and would testify competently to the matters set forth herein under oath.

2. I have overseen and/or been involved in numerous negotiations for live sports telecast rights including deals between our network and Major League Baseball ("MLB"), National Hockey League ("NHL"), National Football League, and NASCAR among others.

3. I understand that MLB owns and/or controls national telecast rights for MLB games, and those rights are administered by the Office of the Commissioner of Baseball ("Baseball"). I further understand that each MLB team (sometimes referred to as a "club") owns and/or controls the telecasts rights for its home and away games that are televised within its home territory. Each season, a certain number of games are selected for national telecasts, and the rights to those games are licensed to national television networks by MLB. The remaining majority of games are televised only within a club's home territory, and those telecast rights are licensed to local television stations or regional sports networks ("RSNs").

FBC's National Television Rights Agreement For MLB Games

4. FBC operates the Fox Network, one of the four major broadcast television networks in the United States. FBC has more than 200 local television station affiliates that broadcast the network's television programming over the airwaves, free of charge, to virtually anyone with a working antenna and television. FBC and its affiliates also distribute their programming through cable, satellite or other multichannel video programming distributors (sometimes called "MVPDs"), such as DIRECTV and Comcast. FBC televises a broad range of high-quality entertainment and sports programming.

5. FBC has been nationally televising MLB games since 1996 under a series of licenses negotiated with Baseball. FBC currently pays Baseball for the exclusive right to televise MLB games on Saturdays during a specified 12-week period of the regular MLB season. FBC airs the games on its critically-acclaimed program, *Fox Saturday Baseball*.

6. Baseball grants FBC an exclusive national telecast window, on Saturday afternoons and/or evenings, within which FBC must produce and televise between 3 and 5 MLB games. In addition to receiving the exclusive national television rights for those particular games, MLB grants FBC the exclusive rights for any nationally televised MLB game during this window. In other words, under the terms of FBC's license agreement with Baseball, no other live MLB games may be nationally televised during the exclusive *Fox Saturday Baseball* window granted to FBC. Furthermore, aside from a few exceptions, no other MLB games may be televised locally or regionally during the *Fox Saturday Baseball* time slot.

7. FBC spends [REDACTED] acquiring the exclusive MLB television rights for *Fox Saturday Baseball* and producing the games and related

programming for television. *Fox Saturday Baseball's* programming is among the highest quality sports programming available. It has first-rate production values, state-of-the-art graphics, the best on-air talent, and Emmy Award-winning game telecasts and shoulder programming with commentary and analysis. As a result, FBC is able to offer consumers compelling sports programming and attract large audiences in the highly competitive entertainment and sports media marketplace.

8. FBC pays for its programming mainly by selling commercial advertising time, or "spots", that appear during periodic breaks within a particular program (i.e., commercials). Advertisers such as car manufacturers, consumer packaged goods companies, financial service providers, and political candidates purchase commercial time to promote their products, services, or political campaigns. Television advertisers pay more money to have their advertisements featured on programs where commercials have the highest viewership, also known as "ratings."

9. The exclusive nature of FBC's telecast rights is what makes them especially valuable. Because *Fox Saturday Baseball* is the only national telecast of MLB games on Saturdays, it allows FBC to offer a highly compelling product to consumers and attract a greater number of sports fans and other entertainment consumers. This, in turn, allows FBC to attract more advertising dollars in the fiercely competitive market for television advertising.

10. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A horizontal bar chart illustrating the percentage of respondents who have heard of various mental health terms. The y-axis lists the terms, and the x-axis represents the percentage scale from 0% to 100%.

Term	Percentage (%)
Depression	98
Anxiety	95
Obsessive Compulsive Disorder (OCD)	88
Post-Traumatic Stress Disorder (PTSD)	85
Generalized Anxiety Disorder (GAD)	82
Major Depressive Disorder (MDD)	78
Bipolar Disorder	75
Schizophrenia	72
Borderline Personality Disorder (BPD)	68
Attention Deficit Hyperactivity Disorder (ADHD)	65
Autism Spectrum Disorder (ASD)	62
Generalized Anxiety Disorder (GAD)	58
Specific Phobia	55
Acute Stress Reaction	52
Adjustment Disorder	48
Depersonalization-Derealization Disorder	45
Factitious Disorder	42
Conversion Disorder	38
Paraphilic Disorders	35
Feigning Mental Illness	32
Impaired Judgment	28
Impaired Functioning	25
Impaired Social Functioning	22
Impaired Work Functioning	18
Impaired Daily Functioning	15
Impaired Self-Care	12
Impaired Relationships	10
Impaired Decision Making	8
Impaired Judgment	5
Impaired Functioning	3
Impaired Social Functioning	2
Impaired Work Functioning	1
Impaired Daily Functioning	0

12. If FBC were not able to secure its television rights on an exclusive basis, with the protections described above, it would also negatively impact the ratings for *Fox Saturday Baseball*. Multiple, simultaneous national telecasts of different MLB games would fragment the national audience. This erodes the audience available for viewing FBC's programming and would likely result in decreased ratings. As noted above, lower ratings would result in less revenue from the sale of commercial advertising.

13. A substantial reduction in advertising revenues would negatively impact FBC's ability to invest in its productions of *Fox Saturday Baseball*. This would ultimately result in a lower-quality product for consumers.

[REDACTED]

[REDACTED]

Fox RSN Agreements

14. There are more than 20 Fox-branded or Fox-affiliated RSNs (the "Fox RSNs"). The Fox RSNs are cable networks (as opposed to over-the-air broadcast networks). The Fox RSNs televise sporting events to local, as opposed to national, audiences. The Fox RSNs distribute their programming to MVPDs with local subscribers in the relevant home territory. The MVPDs pay Fox RSNs various license fees for the right to carry the programming.

15. The Fox RSNs have license agreements for regional telecast rights with 15 of the 30 MLB clubs and with multiple NHL clubs. Each license gives the relevant Fox RSN the exclusive right to telecast, within the licensing team's home television territory, the games played by the licensing team. The licenses cover both home and away games (as long as they are televised in the Fox RSN's home territory). Each Fox RSN televises the vast majority of regular season games played by its licensing team.

16. By virtue of MLB rules, when a Fox RSN is televising an away game, its television producers and crew are guaranteed the right to enter and broadcast from the home team's stadium (for a nominal facilities fee). This ensures that the Fox RSNs are able to freely exercise their license to televise all of a team's away games to the local audience.

"back home." It also ensures that fans have access to their local team's away games on television.

17. Each Fox RSN acquires exclusive television rights with respect to most of a team's games through a license agreement with that team. This means that most of the games played by that team can be seen only on the Fox RSN in the licensed territory (only a limited number of games are televised on a non-exclusive basis). Content exclusivity is critical to the Fox RSNs for several reasons. It greatly increases the Fox RSNs' ability to enter distribution agreements with MVPDs because the MVPDs would not be willing to pay for two or more cable networks showing the same exact schedule of MLB games simultaneously. Additionally, exclusivity maximizes the Fox RSN's ability to sell advertising time. If viewers were able to watch the same exact game on two different channels, the television audience would be fragmented, and ratings for each telecast would be lower. This makes each telecast less valuable to advertisers. These same interests in and benefits of game content exclusivity exist with respect to the rights Fox RSNs license from NHL teams.

18. For the same reasons discussed above, higher license fees from MVPDs and higher advertising revenues allow the Fox RSNs to produce the highest quality sports programming, which results in a superior product for consumers.

19. The Fox RSNs are aware that, for each game, the opposing club generally licenses rights to televise the same game, but only in that club's local market. Accordingly, the Fox RSN licenses do not give any Fox RSN the right to preclude an opposing club's RSN from telecasting the same game within the home territory licensed to that other RSN. Nor

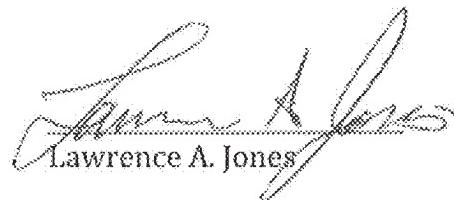
does any Fox RSN determine the territory that any club may offer to license. Those territories are determined internally by Baseball and the NHL, respectively.

20. In certain instances, there may be overlapping telecasts of the same game to the extent that the geographic territories licensed by the opposing clubs overlap in whole or part (for example, the New York Yankees and New York Mets, both of which are New York City teams). To date, however, overlapping local telecasts of the same games licensed to Fox RSNs do not occur with enough regularity to undermine the exclusive content rights Fox RSNs negotiate and pay for.

21. If the Fox RSNs were unable to obtain the exclusive rights and protections described above, it would materially impact the Fox RSNs' valuation of such rights, or whether they would continue licensing MLB and NHL game telecasts at all.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct.

Executed this 7th day of April, 2014 at Los Angeles, California.


Lawrence A. Jones